



MEMORANDUM

Date Issued: November 24, 2004 SEDC Report 04-013

Meeting of November 30, 2004

To: Chair and Members of the Redevelopment Agency

From: Carolyn Y. Smith, President

Subject: Approval of an 11th Amendment to the Agreement between the Redevelopment Agency of the City of San Diego and the Law Offices of Daley & Heft for Special Legal Counsel Services

Reference: Approval of the 10th Amendment to the Agreement for Special Legal Counsel Services with the Law Offices of Daley & Heft by the Redevelopment Agency of the City of San Diego dated September 10, 2004

Approval of the Exclusive Negotiating Agreement with Barone Galasso and Associates by the Redevelopment Agency of the City of San Diego dated May 18, 2004.

SUMMARY

Staff Recommendation – That the Redevelopment Agency of the City of San Diego (Agency) approves the 11th Amendment to the Agreement for Special Legal Counsel Services by and between the Agency and Daley & Heft in an amount not to exceed One Hundred Thousand Dollars (\$100,000) for a total compensation not to exceed Six Million Six Hundred Sixty-One Thousand One Hundred Dollars (\$6,661,100).

Other Recommendations – At its meeting of October 27, 2004, the SEDC Board of Directors voted to recommend to the Redevelopment Agency approval of the 11th Amendment to the Agreement between the Redevelopment Agency and the Law Offices of Daley & Heft for Special Legal Counsel Services.

At its meeting of February 24, 2004, the SEDC Board of Directors voted to recommend to the Redevelopment Agency approval of an Exclusive Negotiating Agreement with Barone Galasso and Associates.

Fiscal Impact –The cost of special legal services were included in the acquisition estimates utilized to develop the request for housing set-aside funds from the Centre City Redevelopment Project via the Agency's Notice of Funding Availability (NOFA) process. The City Council and Agency approved the use of up to \$4 million on July 13, 2004.

BACKGROUND

The development team of Barone Galasso and Associates, Inc., (Developer) is interested in constructing housing on a site located on Euclid Avenue north of Hilltop Drive (Site), within the Central Imperial Redevelopment Project Area. On May 18, 2004, the Agency approved an Exclusive Negotiation Agreement (ENA) with the Developer for the development of residential units on the Site. As a condition of the ENA, the Developer assigned to the Agency all but four parcels necessary for the project. The Agency shall use its good faith effort to acquire certain additional parcels using eminent domain, if necessary.

On July 13, 2004, the City Council and Agency approved the use of the NOFA funds in an amount not to exceed \$4 million for acquisition of the Site. SEDC, on behalf of the Agency, has acquired the parcels assigned by the Developer (approximately 6.79 acres of the 9.43 acre Site) and is in the process of evaluating the feasibility of purchasing the remaining parcels.

DISCUSSION

Special Legal Services – Condemnation

The process of selecting a law firm(s) to provide Special Legal Services includes the Centre City Development Corporation, the Agency and SEDC. The three entities work together to solicit and ultimately select a firm or firms to assist in certain redevelopment matters.

The law firm of Daley & Heft was one of four firms selected to provide special services related to eminent domain cases. Daley & Heft operates under a master contract with the Agency and each entity is responsible for funding its portion of the contract. The

\$6.6 million in total compensation represents the collective amount utilized by the entire Agency.

Daley & Heft

Daley & Heft was formed in 1980. A large part of its practice includes handling eminent domain cases for various public entities throughout the State of California. An example of its recent work is the 26 blocks associated with the construction of Petco Park. Daley & Heft was responsible for the complex acquisitions required for this project. It has also been involved in the acquisition of property in City Heights, other areas of downtown San Diego and San Ysidro.

Scope of Services

Dale & Heft will implement a Scope of Services that includes all aspects of the eminent domain process up to and including representation in court. It will draft offer letters and resolutions of necessity. It will assist in the appraisal process, provide opinion letters and status reports, and attend SEDC Board of Director's and Agency meetings, as required.

CONCLUSION

While no decision has been made to condemn any property, the early involvement of legal counsel is necessary to guide the entire process beginning with the appraisals and up to the actual acquisition.

Submitted/Approved by
Carolyn Y. Smith, President

CYS:kk

Attachments: 1. Eleventh Amendment to Agreement
 2. Scope of Services